



May 27, 2011

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Amendment of the Commission's Rules Related to Retransmission Consent*, MB
Docket No. 10-71

COMMENTS

Dear Ms. Dortch:

The National Consumers League¹ would like to take the opportunity to provide comments in response to the *Notice of Proposed Rulemaking* in the above-captioned proceeding.

As stated in our October 12, 2010 letter to the Commission², we regret that the Commission's retransmission consent rules have been increasingly abused by broadcast networks, their affiliates, and multichannel video programming distributors ("MVPDs").³ We believe that the record in this proceeding demonstrates the degree to which consumers are harmed when parties seek to use the rules to gain leverage in their retransmission consent negotiations. All too often, impasses at the negotiating table are only resolved by higher cable service rates for consumers, loss of programming, or both.

It is for this reason that we applaud the Commission's release of a *Notice of Proposed Rulemaking* to address this issue. Commission action is long overdue to prevent consumers from

¹ The National Consumers League, founded in 1899, is America's pioneer consumer organization. Our mission is to protect and promote social and economic justice for consumers and workers in the United States and abroad. For more information, visit www.nclnet.org.

² Greenberg, Sally. Letter to FCC Chairman Julius Genachowski. 12 October, 2010.

³ Hereafter referred to as "parties."

becoming pawns in the battles between giant cable, satellite, and telecommunications companies on the one hand and massive broadcasting conglomerates on the other.

We would like to address several areas where the Commission has requested comments on the proposed rules.

First, we support the FCC's proposal to broaden the list of objective good faith negotiation standards. Given its statutorily limited ability to intervene directly in negotiations, we believe it is in the public interest for the Commission to act in this manner to prod the parties to reach agreement. Specifically, we support the six revisions to the standards envisioned in the *NPRM* (Sec. 20-27). In each case, we believe that the revisions would provide new incentives to the parties to negotiate in good faith, to the ultimate benefit of consumers who pay a reasonable cost and expect to see their desired programming without confusing interruptions of service.

Second, where the common-sense revisions to the good faith negotiating standards do not result in less-disruptive agreement between the parties, we believe it is imperative that consumers be notified of potential service interruptions. Such notices should be provided in a manner that is accessible and understandable to the greatest number of potentially affected subscribers while avoiding unnecessary consumer confusion. Too often, notice requirements have been used by parties to gain leverage in retransmission consent negotiations through the threat of customer switching to alternative MVPDs.

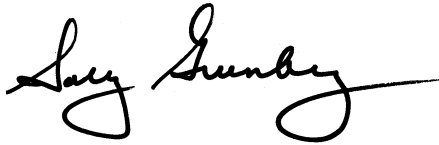
To balance the competing need to inform consumers of possible disruptions while lessening the ability of parties to misuse these notices for negotiating leverage, the Commission should require that notification messages be as neutral as possible in their phrasing. Notice should be provided no less than 30 days prior to the end of the existing retransmission consent agreement if the parties have not agreed to an extension or a new contract. We agree with the Commission's desire to avoid rules that result in too-frequent notices of potential service disruption. To address this, we recommend that the Commission require notices to be provided on the potentially affected channels. These could potentially be presented via a message crawl at the bottom of the screen and periodic announcements on the channel. Doing so would give consumers ample opportunity to make accommodations, such as switching MVPD providers, acquiring an antennae to take advantage of over-the-air broadcasts, or making plans to watch particular programming (such as important sporting events) via an unaffected MVPD.

In conclusion, we stress that the Commission's mission in this proceeding is two-fold. First, service disruptions and consumer confusion stemming from retransmission consent negotiations should be avoided. Second, the Commission should recognize that the all-too frequent result of retransmission consent negotiations is higher rates for consumers. Rules that decrease the incentive to simply pass along these costs to MVPD subscribers should be adopted. Doing so would decrease consumer confusion and the potential for them to incur unnecessary

switching costs while at the same time providing greater incentive for MVPDs to keep rates at a reasonable level.

We look forward to working with the Commission as it moves forward on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Sally Greenberg". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Sally Greenberg
Executive Director
National Consumers League
(202) 835-3323